

Bureau for Private Postsecondary and Vocational Education

**INITIAL STATEMENT OF REASONS**

**Hearing Date: March 6, 2006**

**Subject Matter of Proposed Regulations: Registered Educational Services or Programs**

**Sections Affected:**

The proposed regulations amend sections 74006, 74030, 74040 in Chapter 5 and adopt Chapter 9, Articles 1 and 2, and sections 78000, 78006, 78010, 78020, 78022 in Division 7.5 of Title 5 of the California Code of Regulations (CCR).

**Background/Problem Addressed:**

The Bureau for Private Postsecondary and Vocational Education ("Bureau") is within the Department of Consumer Affairs and is responsible for approving California's private post-secondary degree-granting, non-degree-granting and vocational institutions in compliance with the Private Postsecondary and Vocational Education Reform Act of 1989 ("Act" – California Education Code sections 94700 et seq., Stats. 1997, ch. 78, operative January 1, 1998). Most entities regulated by the Bureau are referred to as "institutions" (Ed. Code, §§ 94730, 94739) and receive an "approval to operate" (Ed. Code, §§ 94718, 94915(e), 94901(c)) after demonstrating compliance with minimum standards under the Act.

With the enactment of Assembly Bill 71 (Ch. 78, Stats. 1997), a new category of regulated educational institution was created called "registered institutions" (Ed. Code, §§ 94740.7, 94931) under Article 9.5 of the Private Postsecondary and Vocational Education Reform Act ("Act" -- Ed. Code, §§ 94700 and following). This new licensing category was intended to create a simplified registration process for persons that choose to offer educational services that are relatively short in duration and lower in cost than other educational services. Such services include: intensive English language programs (Ed. Code § 94931(c)(1)), short-term career training (Ed. Code § 94931(c)(2)), short-term seminar training ((Ed. Code § 94931(c)(3))), license examination preparation (Ed. Code § 94931(c)(4)), and continuing education (Ed. Code § 94931(c)(5)). However, the Act does not provide any direction with respect to the procedures to be followed for registering persons or licensees who offer these services. This includes the application forms to be filed with the Bureau, the time limits for processing applications for registration or change of ownership, the fees to be paid, or actions to be taken if a registered institution is delinquent on any fee payments.

In addition, effective January 1, 2005, Senate Bill 1544 (Ch. 740, Stats. 2004), added a new term and category of program to Article 9.5, “short-term education program,” (Ed. Code, §§ 94742.3, 94931(a)), and removed the definition of “short-term seminar training” from the Act, although “short-term seminar training” is still identified as one of the categories of educational services that qualify for registration. This created further ambiguity and confusion regarding which programs qualify to be “registered” under the Act.

The purpose of the regulatory proposal is to establish, in regulations, the minimum requirements for registering educational services or short-term education programs with the Bureau for Private Postsecondary and Vocational Education (“Bureau”).

### **Specific Purpose and Factual Basis for each adoption, amendment and repeal:**

#### **SECTION 74006**

##### **Purpose**

The purpose of the proposed amendments to subdivisions (a), (b) and (c), and adoption of subdivision (d) of this proposed section is to clarify that registered institutions do not have the same time limits for submission of annual fees as other educational institutions regulated by the Bureau. This proposed section adds a subdivision to specify the billing method and time limit for registered institutions to submit the annual fees to the Bureau during the first quarter of the calendar year. This section also includes non-substantive, technical corrections to renumber subdivision (d) to (e) to account for the new subdivision (d), and a grammatical correction of the word “subsection” to “subdivisions” at subdivision (c).

##### **Factual Basis**

This section is necessary because the time limits and methods for processing annual fees for registered institutions are different than for degree and non-degree educational institutions. Providing a set time limit at the beginning of each year provides for greater administrative efficiency and consistency of notice regarding fees owed for licensees. This section also implements Section 94931(e) of the Education Code. Other corrections are non-substantive with no regulatory effect.

#### **SECTION 74030**

##### **Purpose**

The purpose of the proposed amendments to subdivisions (a) and (b) of this proposed section is to specify that a registered institution must submit a new Application for Registration, Form # R-01, effective January 1, 2006, and receive approval for a change of ownership from the Bureau before a change in

ownership or shift in control can have any validity or take effect. Since registered institutions do not apply for renewal or re-approval, but are subject to the provisions for change of ownership under the Act, this amendment clarifies that new information regarding change of ownership must be filed and verified by filing a new Application for Registration, Form #R-01. Also, consistent with other regulated institutions, subdivision (b) is amended to allow applicants to incorporate by reference information contained in a previously submitted application, to the extent that the information applies and is not misleading.

#### Factual Basis

These amendments are necessary to add registered institutions to this section and to clarify the method for change of ownership or control for registered institutions under the Act. These amendments are also necessary to implement Sections 94846 and 94931(d), and (i) of the Education Code.

#### SECTION 74040

##### Purpose

The purpose of the proposed amendments to subdivisions (a) and (b) of this proposed section is to specify the time frames for the Bureau to respond to a change in ownership from a registered institution, to clarify when the application is considered complete and accepted for filing or is not complete, and to clarify what notice the Bureau must provide if the application is not complete. Subdivision (b) is further amended to specify that an application for registration is considered complete if it appears that the applicant has submitted all of the information and documents required by Section 74030 of this chapter.

#### Factual Basis

These amendments are necessary to add registered institutions to this section and to clarify the method for determining when a registered institution's application is deemed complete or deficient, and the time frames for processing such applications under the Act. These amendments are also necessary to implement Sections 94846, 94931(d), and (i) of the Education Code.

#### CHAPTER 9

##### Purpose

The purpose of the proposed adoption of Chapter 9 and title is to establish a new Chapter within Division 7.5 of Title 5 of the California Code of Regulations that identifies the educational services or programs that are subject to registration and regulations that apply to registered institutions.

## Factual Basis

The adoption of this chapter with the title is necessary to implement Article 9.5 (Ed. Code §§ 94931 and following) of the Private Postsecondary and Vocational Education Reform Act of 1989, as amended in 1997 by AB 71, and in 2004 by SB 1544.

## ARTICLE 1

### Purpose

The purpose of the proposed adoption of Article 1 and title is to establish a new Article in proposed chapter 9 within Division 7.5 of Title 5 of the California Code of Regulations that identifies the general provisions that apply to registered educational services and programs.

### Factual Basis

The adoption of this Article with the title is necessary to implement Article 9.5 (Ed. Code §§ 94931 and following) of the Private Postsecondary and Vocational Education Reform Act of 1989, as amended in 1997 by AB 71, and 2004 by SB 1544.

## SECTION 78000

### Purpose

The purpose of the proposed adoption of this section is to specify the scope of educational services or programs that are required to be registered under Article 9.5 of the Act.

### Factual Basis

Currently, Section 94931(c) of the Education Code lists the types of educational services that qualify to be registered under the Act. However, effective January 1, 2005, Senate Bill 1544 (Ch. 740, Stats. 2004), added a new term and category of program to Article 9.5, “short-term education program” (Ed. Code, §§ 94742.3, 94931(a)).

SB 1544 also removed the definition of “short-term seminar training” from the Act, while leaving the term itself in the list of services that qualify for registration under Education Code section 94931(c)(3). This created further ambiguity and confusion among staff and applicants regarding which programs qualify to be “registered” under the Act. This proposed regulation attempts to implement the apparent intent of the legislature to regulate the new category of registered educational service, as well as alleviate confusion, by defining “short-term seminar training” consistent with the definition of the new category included by the Legislature in Section 94742.3. By eliminating Section 94742.2, which included the former definition of “short-term seminar training”, from the Act,

SB1544 also eliminated any meaningful distinction between a “short-term seminar training” program and a short-term education program. As a result, this proposal reflects the Bureau’s interpretation that applicants may continue to offer short-term seminar training, but as the program is defined within these regulations.

## SECTION 78006

### Purpose

The purpose of the proposed adoption of subdivision (a) is to clarify that a separate Application for Registration, Form #R-01, effective January 1, 2006, (see Exhibit A) must be submitted to the Bureau for each type of educational service or program required to be registered as listed in section 78000. Subdivision (a) also clarifies that institutions that are otherwise exempt under Sections 94750 and 94905 of the Education Code, and institutions that elect to include all of their course offerings on an application for approval to operate, may be excluded from the requirement of filing Form #R-01, effective January 1, 2006.

The purpose of the proposed adoption of subdivision (b) is to specify that when an institution or applicant is subject to Section 94931(b) of the Code, an approval to operate application may be submitted in lieu of the application for registration.

### Factual Basis

The adoption of this section is necessary to clarify the process for applying for registration with the Bureau, to prescribe the registration form used by the Bureau, and to identify the exemptions from filing the registration form.

Further, this proposed section implements Section 94931(a) and (b) of the Code to clarify that an institution subject to Article 8 or 9 of the Act does not need to file a separate application to offer registered educational services or short-term education programs. Instead, consistent with the legislative intent of AB 71 and the plain language of Sections 94931(a), and (b) of the Act, institutions may simply add proposed registered educational services to their existing approval to operate application or renewal application in lieu of filing a separate Application for Registration, Form #R-01, effective January 1, 2006. The adoption of this section is also necessary to implement and make specific Sections 94750, 94905(e) and 94931(b), (c) and (d), of the Education Code.

## SECTION 78008

### Purpose

The purpose of the proposed adoption of Section 78008 is to further clarify the requirements for institutions that elect to offer their registered educational

services through the approval to operate application process as described in proposed Section 78006, subdivision (b).

The purpose of subdivision (a) of this proposed section is to clarify the reporting and record-keeping requirements for a degree and a non-degree granting institution that offers the educational services or programs listed in proposed section 78000. If institutions elect to combine all course offerings on a single application and obtain approval to offer such programs, this proposed section makes it clear that an institution may only do so if it complies with requirements listed in Section 94931(b) of the Act. That Section permits the offering of registered educational services without affecting an institution's "status" as an approved institution if: (1) the registered program is disclosed in its approval to operate application or the institution completes a registration application and the institution receives specific authorization for the program; (2) the institution maintains compliance for all registered programs in conformity with Article 9.5 of the Act; and, (3) the institution maintains a set of student records for registered programs separate from its approved programs.

The proposed regulation specifies that such institutions may exclude registered services or programs from the requirement to submit annual reports under Section 94808 of the Code. In addition, registered services or programs data may be excluded from fee calculations made pursuant to Section 74000(b)(1) of Title 5, of the California Code of Regulations, and from calculations of enrolled students for the purpose of qualifying for an exemption under section 94785 of the Education Code.

The purpose of subdivision (b) of this proposed section is to clarify that notwithstanding the inclusion of educational services or programs in an initial or renewal application, the institution remains subject to the initial application fees in proposed section 78020 and annual fees in proposed section 78022.

The purpose of subdivision (c) of this proposed section is to prohibit an institution that requires approval under Article 8 or 9 of the Act from dividing up their programs or restructuring them to fit into registration requirements to avoid application of any provision of the Act.

### Factual Basis

Education Code Section 94931(b) provides institutions approved as degree or non-degree granting the option to offer an educational service or program that qualifies for registration by: (a) completing a separate registration application, or (b) by including the educational service or program in their approval to operate application. Such institutions may offer these programs pursuant to Section 94931(b) without affecting their "status" under either Article 8 or Article 9 of the Act provided, in part, that they maintain registered records separate from their approval program records. However, it is not entirely clear how such institutions' programs and reporting requirements will be interpreted if they elect the option of including all of their proffered programs in one application for approval to operate and are approved as such. This proposed regulation provides clarity with respect

to annual reports, fee calculations, and exemptions under Section 94785 of the Act.

Furthermore, SB 1544 created ambiguity by using the terms “short-term education program” and “registered programs” seemingly interchangeably in Section 94931(b) of the Act. This proposed regulation is necessary to further clarify that institutions may elect to offer all of their registered educational services as described under proposed Section 78000 under the approval to operate license, not just short-term education programs.

Sections 94931(i) and (j) of the Act make it clear that registered institutions are not required to file annual reports with the Bureau. Consistent with this intent, institutions that elect to offer registered educational services under their approval to operate license are not required to report the data relating to these registered educational services in their annual reports under Education Code section 94808 to the Bureau. Therefore, this proposed regulation at subdivision (a) is necessary to make it clear that these institutions will not be treated differently in reporting data to the Bureau than an institution that elects to file a separate application to offer registered educational services.

In addition to the exclusions of registered data in annual reports, proposed subdivision (a) is necessary to make it clear that the registered institution’s data is not required to be included in the calculations of payment of fees pursuant to Title 5, section 74000(b)(1) of the CCR, and is excluded from calculations for the purpose of qualifying for an exemption pursuant to section 94785 of the Code. This clarification is necessary to preserve the “status” of these institutions’ approvals because including the registered institution’s data may result in the institution paying higher fees or not qualifying for an exemption. This result would be inconsistent with the legislative intent of AB 71, which enacted Section 94931(b). A major goal of that legislation was to reduce fees and ease restrictions for such institutions.

Proposed subdivision (b) is necessary to clarify that acting in accordance with proposed section 78008 does not preclude a degree or non-degree granting institution from paying initial application fees and annual fees for registration. This provision is consistent with Section 94931 of the Code and is necessary to implement Section 94931(e) of the Code. However, pursuant to AB 71, these fees would still be substantially less than fees paid in accordance with the fees listed in Title 5, CCR section 74000(b)(1), because institutions will not be required to pay a separate fee for registration of additional programs of the same type (see proposed section 78010).

Proposed subdivision (c) is necessary to prohibit an institution from dividing up or restructuring programs that should be approved under Article 8 or 9 to fit into registration thereby requiring a student to take three or four classes rather than one. This proposed regulation is consistent with and implements Sections 94931(b) and 94931(i) of the Act, which incorporate Education Code section 94832. Section 94832 is cross-referenced at Section 94931(i) and therefore applicable to registered institutions. As a result, this proposed regulation is

necessary to make it clear that even though institutions may make use of the expedited review and registration processes of Article 9.5, such institutions may not re-structure their programs in a way as to avoid the applicability of any provision of the Act, as prohibited by Section 94832(k) of the Act.

## SECTION 78010

### Purpose

The purpose of the proposed adoption of subdivision (a) is to require notification to the Bureau within a specified time frame if a Degree-Granting or Non-degree Granting institution or registered institution adds educational services or programs that are of the same type as those that have already been registered. This notification is to include the name of the course, course description, length of program, hours, and cost of the program. Also, the proposed section clarifies that no new fees apply, provided the educational service or program is of the same type.

The purpose of the proposed adoption of subdivision (b) is to specify that failure to provide accurate and timely information to the Bureau is grounds for denial of the application or revocation of the institution's registration status.

### Factual Basis

This proposal is necessary so that the Bureau may monitor the institution's status and compliance with Article 9.5 of the Act. This requirement to update program offerings provides an expedited process for institutions or registered institutions, while keeping current and accurate information available to members of the public. This is consistent with other provisions contained in Article 9.5, including Education Code sections 94931(h) and 94931(i), which incorporates Education Code section 94832. This proposal is also necessary to clarify that no new fee will be collected for the addition of new programs of the same "type." In the historical administration of this program, the bulk of the Bureau's review is upon initial application and registration of these programs, and the Bureau has determined that annual fees are adequate to monitor on-going oversight of the program. As a result, no new fees are charged upon the addition of programs of the same "type." This result is consistent with the legislative intent of AB 71, which enacted Section 94931(e) of the Act. A major goal of that legislation was to reduce fees and application processes for such institutions.

Finally, it is also necessary to clarify that failure to provide accurate and timely information to the Bureau is grounds for denial of the application or revocation of the institution's registration status. This proposal is consistent with Education Code sections 94931(i) and (j), which incorporate Education Code section 94830.

## Article 2

### Purpose



The purpose of the proposed Article 2 and title is to specify a schedule of fees for registered institutions.

### Factual Basis

This proposal is necessary to implement Education Code sections 94931 and 94931.1.

## SECTION 78020

### Purpose

The purpose of the proposed adoption of this section is to specify the schedule of fees, including the initial registration fee or change of ownership fee, for each type of registered educational service or program that an applicant proposes to offer to students, how to calculate the total amount, that the amount must be submitted with the Application for Registration, Form #R-01, effective January 1, 2006, and that such fees are non-refundable.

### Factual Basis

As discussed in the Business Impact section of this document, prior to January 1, 1998, the date that the Act was amended, institutions had to seek approval to operate as a “degree,” “non-degree” or “vocational” educational institution, or a “short-course institution” in order to offer the type of courses currently categorized as educational services or programs. This process involved separate fees for each location. The approval process was much more complex and expensive for the institution under these other school approval categories. Current law and these proposed regulations would implement the intent of the 1998 amendments to the Act to reduce fees and eliminate redundancy and duplication of effort by educational institutions that wish to offer short-term educational programs. Except for “short-term career training, the initial fees for registration are lower than fees previously required for “short-course institutions” under regulations in effect before 2001, and are substantially less than the fees that have to be paid for obtaining and maintaining approval under the other licensing categories (see the Economic and Fiscal Statement -STD 399).

The proposed change of ownership application fee is consistent with the requirements of the proposed amendment to section 74030, which requires a registered institution to submit a new application for registration when there is a change of ownership, change in control, or shift in control. The proposed fee is the same as the initial application because the review and processing is the same as for an initial application and therefore involves the same amount of staff time and resources.

The initial registration fee for “short-term career training” is slightly higher than previously required by “short-course institutions” and is higher than fees for the other types of registered educational service due to additional requirements associated with these programs in accordance with AB71. These programs are

required to provide student protections, must disclose completion and placement statistics and are subject to initial site visits at the discretion of the Bureau. Insuring compliance with these requirements significantly increases the time required to complete an application for registration. The higher initial fee reflects the additional time required by staff to register “short-term career training” programs. (See Exhibit “E”).

This proposal is necessary to implement Section 94931(e) of the Code, which requires that initial fees be paid by institutions registered under Article 9.5 of the Act. The proposed regulation establishes a schedule of fees that reflects the staff cost of reviewing the application and registering each type of educational service or program.

To implement Section 94931(e) of the Code it is also necessary to clarify how to calculate the total amount based on whether the educational services or programs are of the same or different type and that the fees must be submitted with the Application for Registration, Form #R-01, effective January 1, 2006.

Proposed subdivision (c) is necessary to specify that application fees and document fees are non-refundable and is consistent with Section 94774(c) of the Code. This implements and is consistent with Section 94931(i) and (j), under Article 9.5 of the Act, and is consistent with how other licensees’ applications are processed pursuant to Section 74000 of Title 5 of the CCR.

## SECTION 78022

### Purpose

The purpose of the proposed adoption of this section is to specify in subdivisions (a) and (b) the schedule of annual fees that the registered institution must pay; to clarify that these fees are based on the type of educational services or programs that are being offered, and how to calculate the total amount. In addition it cross-references to Section 74006(d), which specifies the billing method and time limit for submitting the annual fees.

The purpose of the proposed subdivision (c) is to specify the time limit and penalty fee for being delinquent in the payment of any fee.

The purpose of the proposed subdivision (d)(1) is to specify that if a registered institution fails to pay its annual fee or penalty fee within a specified timeline, the Bureau is required to send a notice by first-class mail indicating its intent to initiate proceedings to revoke the institution’s registration status within 15 days unless the registered institution does any of the following: (A) pays its annual fee and penalty fee, (B) provides evidence of payment, or (C) establishes that no payment is owed.

The purpose of subdivision (d)(2) is to clarify that failure of the institution to meet these requirements shall result in the Bureau initiating proceedings for revoking the registered institution’s registration status. This proposed subdivision also

specifies that the Bureau must notify the registered institution of its rights to a hearing prior to the Bureau taking such action and clarifies the scope of the hearing.

The purpose of paragraph (3) is to clarify that the procedures in subdivision (e) are cumulative to any other right or remedy the Bureau may invoke against a registered institution that fails to pay its annual or a penalty fee when due, and also do not restrict the Bureau's authority to bring other administrative or judicial action against a registered institution that fails to pay its fees when due.

The purpose of paragraph (4) is to clarify that a registered institution that had its status revoked due to nonpayment of an annual fee or penalty fee may seek registration only by filing a new Application for Registration, Form #R-01, effective January 1, 2006.

The purpose of subdivision (e) is to clarify that the regulations in subdivisions (d) and (e) regarding delinquency in the payment of fees and specified time limits therein do not create a "grace period" or an extension of the due date for the payment of fees.

The purpose of subdivisions (f) and (g) is to ensure that annual fees are paid as intended by requiring notification to the Bureau prior to the due date of an annual fee if a registered educational service or program is discontinued and identifies the consequences for failure to provide this notification.

The purpose of subdivision (h) is to clarify that all outstanding fees must be paid before a new registration is issued, consistent with Education Code section 94841.

### Factual Basis

This proposal is necessary to implement Section 94931(e) of the Code, which requires that annual fees be paid by institutions registered under Article 9.5 of the Act. Proposed subdivisions (a) and (b) specify the schedule of annual fees based on the type of educational services or programs offered that reflect staff costs for reviewing and billing annually.

Under previous regulations, a Short-Course Institution had to pay a reapproval fee of \$700 approximately every three years. Additional fees were required for adding a site or branch, changing a main location, changing a site of branch location, and change of ownership. This regulatory proposal eliminates the re-approval fee and the additional fees required for program changes under previous regulations, which entirely offsets the cost of paying an annual fee.

The cross-reference to proposed section 74006(d) is necessary for consistency and clarity. Proposed section 74006(d) specifies the billing method and the time line for submitting the annual fees.

Proposed subdivision (c) is necessary to specify the amount of the penalty fee for being delinquent in the payment of any fee and the time limit that will trigger this penalty fee assessment. This proposed regulation is necessary for effective implementation of the provision in Section 94931(e) of the Code that provides, in part, that “no institution shall be registered pursuant to this article unless it has paid the appropriate fees required by the bureau.”

Proposed subdivision (d)(1) is necessary to clarify the consequences for the failure of a registered institution to pay its annual fee or penalty fee when required and the actions the Bureau is required to take in these circumstances, including notification requirements of the institution’s rights to a hearing prior to the Bureau taking an action for revocation of an institution’s registration status. In addition, it is necessary to specify the scope of the hearing if one is requested. This is consistent with the implementation of Section 94931(j) of Article 9.5 of the Act, which cross-references to the notice and hearing requirements contained in Article 13 of the Act.

Proposed paragraphs (2) and (3) of subdivision (d) are necessary to implement Sections 94931(e), (i) and (j) of the Code and to clarify that the proposed regulations do not relieve the Bureau from its duty to enforce the Act and protect the public as provided in, but not restricted to, Sections 94770.1, 94774.5, and 94778 of the Code and Article 13 of the Act (commencing with Section 94950 of the Code).

Proposed paragraph (4) is necessary to clarify the procedures and requirements if a registered institution whose status was revoked due to nonpayment of an annual fee or penalty fee seeks registration. This is consistent with the implementation of Section 94931(i) of Article 9.5 of the Act, which cross-references to the fee payment requirements contained in Section 94841 of the Act.

Proposed subdivision (e) is necessary to clarify that the due dates of the date for the payment of fees is not altered to create a “grace period,” as a result of the time limits specified in subdivisions (d) and (e). This is consistent with the implementation of Section 94931(i) of Article 9.5 of the Act, which cross-references to the fee payment requirements contained in Sections 94830(q) and 94841 of the Act.

Proposed subdivisions (f) and (g) are necessary for effective monitoring of registered educational services and programs offered to students and to keep track of annual fees due. It is also necessary to clarify that unless the Bureau is notified prior to the due date of an annual fee that an educational service or program has been discontinued payment of the annual fee is not relinquished. Proposed subdivision (h) is necessary to specify the consequences for failure to provide the Bureau with this notification in a timely manner as specified. This is consistent with the implementation of Section 94931(i) of Article 9.5 of the Act, which cross-references to the fee payment and information requirements contained in Sections 94830(b), and (q) and 94841 of the Act.

Proposed subdivision (h) is necessary to clarify that registration of a new registration requires that all outstanding fees are paid and is necessary to implement Education Code Section 94931(e). This is also consistent with the implementation of Section 94931(i) of Article 9.5 of the Act, which cross-references to the fee payment requirements contained in Section 94841 of the Act.

## **Exhibits**

- A. Application for Registration, Form # R-01, effective January 1, 2006.

### Specific Purpose and Factual Basis:

The purpose of the Application for Registration, Form #R-01, effective January 1, 2006, is to (1) provide a uniform method for submitting and reviewing a request for registration of educational services or programs, (2) clarify to the applicant the information and documents necessary for registration, and (3) determine whether the educational service or program meets the qualifications for registration as provided by Article 9.5 of the Act (commencing with section 94931 of the Code).

Specifically, this proposed form is necessary to implement Education Code sections 94931(d) and (e) of the Code.

The first portion of the application provides the Notice on Collection of Personal Information pursuant to the Information Practices Act of 1977 (Civil Code Section 1798 and following) and other required disclosures.

Section 1 lists the educational services or programs that qualify for registration, the applicable fees and provides instructions to the applicant as to where to send the application and fee. This section also informs the applicant that the fees are non-refundable, in accordance with proposed section 78020(c).

Sections 2 through 5 solicit information from the applicant pursuant to Education Code sections 94931(d)(1) through (9) inclusive.

Section 6 requests certification of qualifications of applicant institutions pursuant to sections 94931(i) and (j) of the Act to determine compliance with section 94830, 480 of the Business and Professions Code and proposed section 78022.

Appendices A - E include a questionnaire to determine the institution's course offerings and whether the educational service or program offered by the institution meets the criteria for Continuing Education as defined in section 94722 of the Act, Intensive English Language Program as defined in section 94733 of the Act, License and Exam Preparation as defined in section 94734, Short-term Seminar Training as defined in proposed

section 78000, or Short-term Career Training as defined in proposed section 78000.

Appendix F provides instructions for documents and materials to accompany the application and lists the requirements for a registered institution's brochure and catalog, and the institution's registration form/enrollment agreement. This section is necessary to implement sections 94931 and 94931.1 of the Act and specify the minimum standards for approval of registered services or programs.

### **Underlying Data**

- A) Analysis dated July 18, 1997, Senate Committee, Business and Professions.
- B) Analysis dated July 17, 1997, Assembly Committee on Higher Education.
- C) "Short-course" institutions, former section 74012 in Title 5, California Code of Regulations repealed on 10-22-01.
- D) Legislative Counsel's Digest dated February 19, 2004
- E) Revenue Detail for Proposed BPPVE Regulations for Registered Institutions Program dated December 6, 2005

### **Business Impact**

This regulation will not have a significant adverse economic impact on businesses. This initial determination is based on the following facts, evidence, testimony or documents:

The Bureau has made an initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. Before the 1998 changes to the Private Postsecondary and Vocational Education Reform Act of 1989 ("Act" – Education Code sections 94700 and following), institutions had to seek approval to operate as a "degree," "non-degree" or "vocational" educational institution, or a "short-course institution," which involved separate fees for each location. The approval process was much more complex and expensive for the institution under these other school approval categories. Current law and these proposed regulations would implement the intent of the 1998 amendments to the Act to reduce fees and eliminate redundancy and duplication of effort by educational institutions that wish to offer short-term educational programs. The initial fees for registration for all registered educational services other than "short-term career training" are lower than those previously required for "short-course institutions" under regulations in effect before 2001, and are substantially less than the fees that

have to be paid for obtaining and maintaining approval under the other licensing categories.

The initial registration fee for “short-term career training” is slightly higher than previously required by “short-course institutions” and is also higher than fees for other types of registered educational service due to additional requirements associated with these programs in accordance with AB71. Students of these programs are eligible for pro rata refunds and must pay the fee required for eligibility for reimbursement from the Student Tuition Recovery Fund. The institutions must disclose completion and placement statistics for these programs, and are subject to initial site visits at the discretion of the Bureau. Insuring compliance with the additional requirements considerably increases the Bureau’s time and cost to complete an application for registration, and justifies the higher fee.

### **Specific Technologies or Equipment**

This regulation does not mandate the use of specific technologies or equipment.

### **Consideration of Alternatives**

No reasonable alternative to the regulation would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed regulation.